



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number:	LLS 23-1011	Date:	April 17, 2023
Prime Sponsors:	Rep. Weissman; Soper Sen. Gonzales; Gardner	Bill Status:	House Judiciary
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Bill Topic:	ENHANCED SENTENCING CO COMMN CRIM & JUV JUS REC
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Summary of Fiscal Impact:	<input type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
	<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
	<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill allows persons sentenced as violent offenders to serve their sentences concurrently under certain circumstances, and allows persons sentenced as violent and habitual offenders to petition the court to modify their sentence. The bill impacts state and local expenditures beginning in FY 2023-24.

Appropriation Summary:	No appropriation is required.
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Fiscal Note Status:	The fiscal note reflects the introduced bill.
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Summary of Legislation

The bill allows persons sentenced as violent offenders to serve their sentences concurrently under certain circumstances, and allows persons sentenced as violent and habitual offenders to petition the court to modify their sentence. These provisions are detailed below.

Consecutive and concurrent sentences for violent offenders. Under current law, a person convicted of two or more separate crimes of violence arising out of the same incident must serve their sentences consecutively (one after another) unless the crime is aggravated robbery, assault in the second degree, or escape, then the court may require the person to serve the sentences concurrently (at the same time).

The bill allows a person sentenced for two or more separate crimes of violence to serve their sentences concurrently if:

- the person petitions the court to modify the sentence after 2 years and no more than 5 years after the judgement and the court finds there are substantial mitigating favors and if the person has demonstrated substantial actions toward rehabilitation;
- the parties agree to waive ineligibility for concurrent sentences; or
- the person has no prior felony convictions for a victim rights crime, did not use or possess a firearm or explosive, and their action did not result in serious bodily injury or death.

The bill outlines that when petitioning the court, the person is entitled to an evidentiary hearing and that the court appoint counsel for the defendant. The bill also allows the court to modify the sentence.

Habitual offender petitions. The bill also allows habitual offenders to petition the court for a modification of their sentence if the person was sentenced to more than 24 years of prison and has served at least 10 years of a sentence. If the person petitions the court, the court must set the matter for an evidentiary hearing and the defendant must prove that they are eligible to petition, there are mitigating factors, the person has demonstrated positive, engaged, and productive behavior, and the defendant does not present a risk to the community. If the court determines that these are met, the court may modify the sentence to at least the midpoint in the aggravated range for the class of felony they were convicted, up to a term less than the current sentence.

State Expenditures

The bill may increase workload in the Judicial Department and the offices that represent indigent persons, and may decrease costs in the Department of Corrections, as described below.

Judicial Department and independent agencies. Assuming a person commits a crime in FY 2023-24 and is sentenced in FY 2024-25, starting in FY 2026-27, workload to the trial courts, the Office of the State Public Defender, and the Office of Alternate Defense Counsel will increase to hear petitions brought by offenders. It is unknown how many petitions may be heard. It is assumed that any workload can be accomplished within existing appropriations.

Department of Corrections. Starting in FY 2023-24, to the extent more offenders serve their sentences concurrently, rather than consecutively, or to the extent offender sentences are reduced due to petitions, costs to the Department of Corrections will decrease. These impacts are subject to future offender actions and court decision-making and cannot be estimated; therefore, any reductions will be addressed through the budget process. For informational purposes, it currently costs \$56,765 per year to house an offender in prison and \$7,749 per year to supervise an offender on parole.

Local Government

Similar to the state, starting in FY 2026-27, the bill will increase district attorney workload to notify victims of petitions and to review files prior to the hearing. District attorney offices are funded by counties.

Effective Date

The bill takes effect on July 1, 2023, and applies to sentences on or after that date.

State and Local Government Contacts

Corrections

District Attorneys

Judicial